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United States, 221 U. S. 361. Nor when an officer of a corporation refuses to deliver such documents because they are corporation property and would tend to incriminate the corporation. *Hale v. Henkel*, 201 U. S. 43. But there was strong dissent in both of the last mentioned cases.

TAXATION—REMEDY AT LAW—ILLEGAL TAXES.—After tender of payment of the amount due on its personal property returned for taxation for city and county taxes, the plaintiff corporation brought suit to enjoin collection of the tax on the ground of illegality. *Held*, the injunction can not be granted, since the plaintiff had an adequate remedy at law to recover the amount paid if the taxes were illegal. *Singer Sewing Machine Co. v. Benedict*, 33 Sup. Ct. 942.

In the Federal courts the rule is settled that illegality or unconstitutionality of a state or municipal tax is not of itself ground for an injunction, but there must be also circumstances bringing the case under some recognized head of equity jurisdiction. *Dows v. City of Chicago*, 11 Wall. (U. S.) 108; *Hannewinkle v. Georgetown*, 15 Wall. (U. S.) 547; *Milwaukee v. Koeffler*, 116 U. S. 219; *Shelton v. Platt*, 139 U. S. 591; *Pittsburgh, etc., Ry. Co. v. Board of Public Works*, 172 U. S. 32; *Arkansas Building Ass'n v. Madden*, 175 U. S. 269; *Allen v. Pullman Palace Car Co.*, 139 U. S. 658; *Indiana Manufacturing Co. v. Koehne*, 188 U. S. 681; *Boise Artesian Water Co. v. Boise*, 213 U. S. 276. Equitable relief will be granted where there is no adequate remedy at law. *Ogden City v. Armstrong*, 168 U. S. 224. This principle is applicable where the tax constitutes a cloud on title to real estate. *Wilson v. Lambert*, 168 U. S. 611. And also where its collection would result in irreparable injury. *Osborn v. Bank*, 9 Wheat. 738; *Allen v. Baltimore, etc., R. R. Co.*, 114 U. S. 311. Also where it would lead to a multiplicity of suits. *Union Pacific Ry. Co. v. Cheyenne*, 113 U. S. 516; *Fargo v. Hart*, 193 U. S. 490. The amount acknowledged to be due must be paid or tendered before equity will interfere. *Peoples National Bank v. Marye*, 191 U. S. 272. However, where the tax is on property exempt from taxation, or where it is based on wholly unconstitutional principles, and under such circumstances that it cannot be readily ascertained what amount is equitably due, no payment or tender is necessary, but an offer of security for any amount which may be found due is sufficient. *Fargo v. Hart*, *supra*. And where it is expressly provided by statute in the state by which the tax is laid that an injunction is the proper remedy, the Federal courts will afford that remedy. *Cummings v. National Bank*, 101 U. S. 153; *Grether v. Wright*, 75 Fed. 742. Nor can one indirectly liable for the tax, as a stockholder of a corporation, maintain the suit when relief would not be granted to the party primarily liable, unless he shows not only grounds for equitable relief against the tax itself, but also that he has taken every essential step necessary to entitle him to sue in the place of the primary tax-debtor. *Corbus v. Alaska Treadwell Gold Mining Co.*, 187 U. S. 455. *Cf. Dodge v. Woolsey*, 18 How. 331. The Federal courts are prohibited by statute from restraining the assessment or collection of Federal taxes on any grounds. U. S. Rev. Stat.,

1878, § 3224. And they are likewise deprived of equitable jurisdiction in all cases where there is a plain, adequate, and complete remedy at law. U. S. Rev. Stat., 1878, § 723.

The rule is based upon three separate principles. (1) There is a plain, adequate, and complete remedy at law, namely, to pay the illegal tax under protest, and sue the collecting officer as a trespasser. (2) The efficient collection of taxes, upon which governments are dependent for their continued existence, can be accomplished only by means of summary proceedings, and it is of the highest importance to the public that the instrumentalities used shall be as free as possible from interference by the courts. (3) Taxation is a legislative function, and the courts have no power to make or cause to be made a new tax in lieu of the illegal tax enjoined, so that full justice cannot be done where some tax is equitably due.

The state courts grant equitable relief against illegal taxes more freely than the Federal courts, though many follow the federal doctrine. *Staunton v. Mary Baldwin Seminary*, 99 Va. 653, 39 S. E. 596; *Youngblood v. Sexton*, 32 Mich. 406, 20 Am. Rep. 654; *Moline Water Power Co. v. Cox*, 252 Ill. 348, 96 N. E. 1044; *Odlin v. Woodruff*, 31 Fla. 160, 22 L. R. A. 699, and note; *Holland v. Mayor of Baltimore*, 11 Md. 186, 69 Am. Dec. 195, and note.

The stricter rule of the Federal courts would seem to be the sounder, both as a principle of equity procedure and also as a matter of public policy.

TELEGRAPH AND TELEPHONES—DAMAGES FOR PROLONGATION OF MENTAL ANGUISH.—Plaintiff's husband sent a telegram to his wife stating that their child was safe. Owing to the defendant's negligence the message was delayed for five hours. *Held*, plaintiff could recover damages for the prolongation of her mental anguish, since the telegram was sufficient to put defendant on notice of her anxiety. *Middleton v. Western Union Tel. Co. (Ala.)*, 62 So. 744.

The weight of authority denies the recovery of damages from telegraph companies for mental anguish alone, even though the company is put on notice that such suffering may result from delay or non-delivery. *Chapman v. Western Union Tel. Co.*, 88 Ga. 763, 15 S. E. 901; *Western Union Tel. Co. v. Rogers*, 68 Miss. 748, 9 So. 823; *Connely v. Western Union Tel. Co.*, 100 Va. 51; *Western Union Tel. Co. v. Choteau*, 28 Okl. 664, 155 Pac. 879; *Western Union Tel. Co. v. Sklar*, 126 Fed. 295.

One view allows damages for the creation of mental suffering, but not for its prolongation. *So. Relle v. Western Union Tel. Co.*, 75 Tex. 26, 12 S. W. 534. Another line of authority, exemplified in the principal case, makes no distinction between the creation and the prolongation of mental anguish, and allows compensation in either case. *Western Union Tel. Co. v. Hollingsworth*, 83 Ark. 39, 102 S. W. 681, 11 L. R. A. (N. S.) 497; *Western Union Tel. Co. v. Robinson*, 97 Tenn. 638, 37 S. W. 545; *Dayvis v. Western Union Tel. Co.*, 139 N. C. 79, 51 S. E. 898.

As the distinction between the two situations is one of degree only, the latter seems to be the sounder view.